

Applicant : Edward J. Goldman, et al.  
Serial No. : 10/774,873  
Filed : February 9, 2004  
Page : 8 of 13

Attorney's Docket No.: 00315-388001

Amendments to the Drawings:

The attached replacement sheet of drawings includes changes to Fig. 9 and replaces the original sheet including Figs. 8, 9, and 10.

In Figure 9, add lead line for element 812.

Attachments following last page of this Amendment:

Replacement Sheet (1 pages)  
Annotated Sheet Showing Change(s) (1 pages)

### REMARKS

Claims 1-24 are pending in this application with claim 13 being withdrawn from consideration as drawn to a nonelected species. Applicants amend claims 1, 4-7, and 18. Support for the amendment to claim 1 can be found in the specification at page 9, lines 12-21 and FIGS. 2A to 3B. Support for the amendment to claim 18 can be found at page 10, line 12 to page 11, line 9 and FIGS. 4A-4C. Claims 4-7 are amended in response to objections made by the Examiner. No new matter is entered thereby.

#### Objections to the Drawings

The drawings are objected to because the lead line for "812" in Figure 9 is missing. Applicants amended Figure 9 to add the missing lead line and request that this objection be withdrawn.

According to the Office Action, "the method steps of positioning the container so that the fluid is in contact with the nipple and then manipulating or compressing the nipple, as claimed in claims 20 and 24, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered."

Applicants respectfully disagree and submit that the Figures, and in particular, FIGS. 3B and 5A-5B show the features specified in claims 20 and 24, and respectfully request that this objection be withdrawn.

#### Objection to the Specification

The Office Action asserts that "the title of the invention is not descriptive [and that a] new title is required that is clearly indicative of the invention to which the claims are directed." Applicants amend the title and respectfully request that this objection be withdrawn.

35 U.S.C. § 112

Claims 1-12 and 14-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 7 are objected to insufficient antecedent basis for the limitation “the outer membrane” in lines 7 and 12 in claim 1 and line 2 of claim 7.

Applicants amend claims 1-12 and 12-24 to cure the deficiencies noted above and respectfully request that this objection be withdrawn.

Claims 4-6 and 18 each recites the limitation “the membrane” of the outer member in lines 2 and 6. There is insufficient antecedent basis for this limitation in the claim.

The office action asserts that “it isn’t clear what applicants intend to claim with dependent claims 18-24. It may be noted that claims 1-17 are for a product. However claims 18-24 recite a method not a product.” Applicants amend claim 18 and respectfully request that the objections to claim 18, and claims 19-24 depending therefrom, be withdrawn.

35 U.S.C. § 103(a)

Claims 1, 4-8, 10, 14 and 17, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,747,083 to Raymond et al. (Raymond) in view of U.S. Patent No. 5,860,541 to McIntyre et al. (McIntyre). Applicants respectfully traverse this rejection, and ask that it be reconsidered in light of the above amendments to the claims and the remarks presented below.

Raymond discloses a feeding bottle including a tubular body 1 and a tubular flexible capsule or bag 3 having an open end and a flange which allows positioning of the bag within the tubular body. The body includes a first check valve 2 and an intermediate valve 5 disposed in front of an opening to tubular body and formed by two circular membranes 6 and 7. A teat 12 composed of an outer hollowing casing 13 and in inner core 14 is attached atop the valve 5 to the opening of the tubular body. The outer casing 13 is “made of a flexible material which has an elasticity and a sufficient rigidity to return to its normal shape when the effort of crushing, to

which it is subjected, disappears.” Raymond explains that “the return force of the outer casing to its initial shape is designed to create a suction effect of a force suitable for disengaging the upper membrane 7 from the lower membrane 6.” The outer casing 13 includes a nipple piece 15 which provides a valve seat “formed by a narrowing or an annular rib 19, formed by the casing 13 at the level of attachment of the nipple piece 15 to the body 16.”

McIntyre discloses a teat 10 for feeding young animals including “a bung 16 ... inserted into the inlet end 11 ... having a number of annular ribs 16a which engage in correspondingly spaced and shaped grooves in flange 13” of the teat 10. The bung includes a valve which is preferably molded together with the bung, to control the flow from an inlet end to an outlet end of the teat 10.

Amended independent claim 1 recites, *inter alia*, “a holding chamber having the valve passage as an inlet and the aperture as an outlet, the holding chamber comprising a first section that receives the fluid when the outer member is released and a second section in hydraulic communication with the aperture, a compromisable seal being disposed between the first section and the second section to effectively isolate the first section of the holding chamber from the aperture when the outer member is released, the compromisable seal formed between the outer member and an outwardly facing surface of the inner member; wherein the flap is positioned on a side of the valve passage nearest the holding chamber to inhibit flow from the holding chamber through the valve passage when the membrane of the outer member is compressed to collapse the holding chamber, and to deflect away from the valve passage to allow the holding chamber to receive a fluid through the valve passage when the outer membrane is released.”

The Office Action asserts that “[t]o have provided the nipple with inner flaps to close the valve[] openings to prevent backflow and eliminate the extra pieces would have been obvious in view of the teaching of McIntyre et al at 28.” Applicants submit however, that there would have been no motivation to a person of ordinary skill in this art to replace Raymond’s single disk valve with a more complex flap valve configuration, solely on the teaching of McIntyre. As compared with the disk valve of Raymond, the flap valve arrangement requires more complex molding to manufacture. Applicants have provided the motivation to combine a holding

chamber separated and bifurcated by a compromisable seal and a flap valve arrangement disposed near the holding chamber in a nipple to control the flow of fluid from the holding chamber from the aperture.

The flaps positioned on the side of the valve passages near the holding chamber help to limit the flow of fluid downstream of the valve and provide a configuration with functionality not permissible with the single disk valve of Raymond. For example, the membrane portion of the outer member can include an exposed surface with a delineated region adjacent the flap as recited in claim 3. With this configuration, applying a force, such as by compressing the opposing delineated regions 214 between the thumb and forefinger, causes the delineated regions to move inwardly, thereby moving the associated flaps 210 so that corresponding holes 226 in the flaps 210 align with valve passage 216 in inner member 110. Accordingly manual flow control through the valve passages is established.

Applicants amend claim 18 to recite a method of delivering fluid to a baby including, *inter alia*, "positioning the aperture of the nipple inside a baby's mouth, thereby enabling the baby's mouth to apply a compressive force to the central membrane portion of the outer member at the compromisable seal to collapse the central membrane portion of the outer member to force fluid from the holding chamber and through the aperture; and then release the central membrane portion of the outer member, thereby enabling the holding chamber to receive more fluid from the container through the valve passage." In contrast, the valve assembly 19-20 of Raymond functions with the application of radial (positive or negative) pressure beneath (i.e., inboard of) the seal between the rib 19 and the valve 20 to effect axial movement of the core 14 relative to the outer casing 13, thereby opening the valve assembly 19-20.

Applicants submit that claims 2-12, and 14-17 depend from claim 1 and are allowable with it and submit that claim 18 is allowable for at least the same reasons as claim 1. Claims 19 to 23 depend from claim 18 are allowable with it. Claim 24 recites a method of priming the nipple of claim 3, which depends from claim 1, and is allowable for at least the same reasons.

Claim 16 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of PCT Publication No. WO 00/48491 (the '491

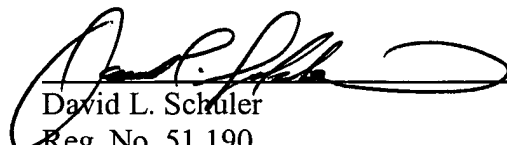
publication). Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of U.S. Patent No. 2,600,978 to Demarco, Jr. (Demarco). Claim 19 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to claim 18 above, and further in view of GB Patent No. 2131301 to Haberman (Haberman). Neither the '491 publication, Demarco, nor Haberman disclose or suggest the subject matter as recited in claims 1 and 18. Claim 16 depends from claim 1 and claim 19 depends from claim 18 and are allowable for at least the same reasons.

The undersigned respectfully requests an opportunity to discuss potential amendments to the claims to advance prosecution, should the Examiner question the allowability of the claims as presently worded.

Enclosed is a check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, referencing Attorney Docket No. 00315-388001.

Respectfully submitted,

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